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Supreme Court, U.S.
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NO_____

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1988

EILEEN CONWAY,

Petitioner,

vs.

FIRST TRUST COMPANY,

Respondent.

ON PETITION FOR WRIT OF CERTIORARI

TO THE NORTH DAKOTA SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

Eileen Conway
Attorney pro se
2922 Germantown Road South
Germantown, Tennessee 38138
(901 754-1057)

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QUESTIONS PRESENTED FOR REVIEW

As a matter of law, did the North Dakota Supreme Court violate the substantive and procedural due process rights and equal protection rights of Conway, beneficiary of the Estate of Selma Kjorvestad, (who died on May 15, 1974) when it "repealed in the interest of justice" the Probate Statutes of the North Dakota Century Code and rejected the Transition Provision of the Uniform Probate Code but instead applied the Uniform Probate Code which was not adopted unitl July 1, 1975, over a year after the date of death of Selma Kjorvestad?

As a matter of law, did the North Dakota Supreme Court err in ruling that the abortion of the entire probate procedure of the Estate of Selma Kjorvestad, with no Inventory of $1,646,780.00 in property; no Appraisement of $1,626,780.00

in property; no accounting in 14 years of $974,780.00 in cash assets that disappeared from Nelson County Probate Court, "is not significant"?

As a matter of law, did the North Dakota Supreme Court violate the substantive and procedural due process rights of Conway when it imposed ten financial penalties against her because her appeals of counterfeit court orders and fraudulent accounts of the Estate of Guy Kjorvestad, Sr. and the Estate of Selma Kjorvestad, combined, were "frivolous, flagrantly groundless and taken in bad faith"?

As a matter of law, did the North Dakota Supreme Court violate the substantive and procedural due process rights of Conway when they denied Conway a fair trial, deprived Conway of the

right to inspect the Docket File of the Estate of Selma Kjorvestad, and refused Conway the right to examine the former Probate Officer of First Trust on fees which constitute ten financial penalties against Conway because she exercised her right of due process of law and equal protection of the Probate Statutes of the North Dakota Century Code and the North Dakota Constitution?

As a matter of law, did the North Dakota Supreme Court err in affirming the contention of First Trust that Selma Kjorvestad was a non-legal entity, a companion, a dependent who had no legal status under North Dakota law?

As a matter of law, did the North Dakota Supreme Court err in approving, in violation of the Probate Statutes of the North Dakota Century Code, the

demands of their former associate justice on North Dakota's highest court, a total of $280,104.97 in legal fees, plus ten financial penalties with double costs, plus a $5,000.00 Reserve Retainer from the aborted, debt-free, bankrupt estate of a non-legal entity?

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First Trust v. Conway, 345 N.W. 2d 838 (February 23, 1984)

First Trust v Conway, 375 N.W. 2d 160 (N.D. October 1, 1985)

First Trust v. Conway, 395 N.W. 2d (N.D. October 28, 1986)

OPINIONS BELOW

The Judgment with Amended Opinion of the North Dakota Supreme Court, whose judgment is sought to be reviewed, is reprinted in the Appendix. The Judgment evolved from Judgment of the North Dakota Supreme Court entered on October 1, 1985. It encompasses three amended orders in the Nelson County Probate Court of the Judgment entered October 1, 1985. The amended orders of the Nelson County Probate Court, opinions and judgments of the North Dakota Supreme Court are reprinted in the Appendix.

TO The Honorables, The Chief Justice and Associate Justices of the Supreme Court of the United States:

Petitioner, Eileen Conway, respectfully requests a Writ of Certiorari to review Judgment of the North Dakota Supreme Court entered May 16, 1988 with Amended Opinion entered June 28, 1988. The North Dakota Supreme Court entered Order Denying Petition for Rehearing on June 28, 1988.

JURISDICTION

The Eighth and Fourteenth Amendment of the Constitution of the United States confers jurisdiction on the United States Supreme Court to review the Judgment of the North Dakota Supreme Court.

The North Dakota Supreme Court violated the right of Conway for protection under the Eighth Amendment from "excessive fines imposed, nor cruel and unusual punishments inflicted" because she exercised her right of due process of law and equal protection of the Probate Statutes of the North Dakota Century Code and the North Dakota Constitution.

The due-process clause of the Fourteenth Amendment ensures impartial judges. The Constitution gives the United States Supreme Court the power and the duty to keep the North Dakota Supreme Court from undermining the rule of law. In an affront to constitutional law, the North

Dakota Supreme Court ignored the Eighth and Fourteenth Amendment of the Constitution; rejected the Constitution of North Dakota; repealed the Probate Statutes of the North Dakota Century Code; refused to acknowledge the Transition Provision of the Uniform Probate Code; threw out their own North Dakota Court Rules; and disregarded common law in order to cover-up probate fraud and felonies committed by a former North Dakota Supreme Court Justice, Johnson, attorney for First Trust.

The petitioner requests stay of proceedings in the North Dakota Supreme Court and the Nelson County Probate Court pending the decision of this Court.

STATEMENT OF THE CASE

A. Proceedings and Disposition Below.

This is a Petition for Writ of Certiorari arising out of petitioner's appeal of Findings of Fact, Conclusions of Law and Order entered October 2, 1984 in the Nelson County Probate Court in Lakota, North Dakota. During oral argument on June 13, 1985, the attorney for First Trust, Johnson, demanded that his former associate justices on North Dakota's highest court levy financial penalties against the petitioner, the beneficiary of the Estate of Selma Kjorvestad, for exercising her right, under NDCC 30-20-13, 30-20-15 and Rule 5 of the N.D. Rules of Civil Proedure, to contest a fraudulent account and counterfeit court order approved in Findings of Fact, Conclusions of Law and Order.

In Opinion and Judgment, dated and entered May 16, 1988 and Amended Opinion

and Judgment, dated and entered on June 28, 1988, the North Dakota Supreme Court complied with the demand of Johnson and imposed ten financial penalties against the petitioner for her appeals of Findings of Fact, Conclusions of Law and Order, entered October 2, 1984; Amended Findings of Fact and Order Upon Remand, entered December 5, 1985; and Findings and Order Approving Fees, entered February 23, 1988. the North Dakota Supreme Court ruled:

> "We have stated that 'An appeal is frivolous if it is flagrantly groundless, devoid of merit, or demonstrates persistence in the course of litigation which could be seen as evidence of bad faith.' Thus we deem this appeal to be frivolous under Rule 38, N.D.R.App. P." (App. p. 87)

1. Findings of Fact, Conclusions of Law and Order entered October 2, 1984.

When First Trust petitioned for a hearing on the final account for September 21, 1984, it submitted two fraudulent documents: (a) a secret, counterfeit

court order approving an interim account procured by fraud on December 8, 1982 approving an interim account of the Estate of Guy Kjorvestad, Sr. and the Estate of Selma Kjorvestad, combined; and (b) a final account of the Estate of Guy Kjorvestad, Sr. and the Estate of Selma Kjorvestad, combined.

(a) The secret, counterfeit court order procured by fraud on December 8. 1982.

Three weeks before North Dakota law changed on January 1, 1983 to require judges to have a law degree, First Trust petitioned for a hearing on an interim account before Judge Arnold Johnson, a full time farmer and part-time judge with a high school education, in Steele County, Finely, North Dakota. (Judge Johnson was substituted after Nelson County Probate Judge, Clerk of Court and Register of Deeds, Audrey Swanke, officially acknowledged two incidents of assault and batt-

ery against Conway in the Nelson County Courtroom during a hearing when Conway pleaded for an accounting of $665,000.00 in cash assets in her father's estate. After her ten-minue violent rampage the six-foot Judge Swanke forced Conway to sign deeds to 3520 acres of farmland. Judge Swanke formally withdrew as Probate Judge for the Estate of Guy Kjorvestad, Sr. and the Estate of Selma Kjorvestad in letters in the probate files. However, Judge Swanke illegally continued to sign secret court orders allowing criminals to ziphon cash assets out of bank accounts belonging to the estates. (Brief of Appellant, #870111, p. 7; Petition for Rehearing, #870111, p. 1 to 8)

First Trust and Johnson did not appear for their own hearing scheduled for 10 A.M. and claimed they had forgotten that they had petitioned for a hearing.

when they arrived in dishevelment at 12:30 P. M., Conway cited fraud, errors, omissions, discrepancies, and missing cash assets amounting to $882,740.53. Anderson and Johnson, shamefaced to be caught red-handed in probate fraud, aborted the hearing, withdrew their account and left the courtroom after the thirty-minute hearing. Twenty-two months later it was discovered that Johnson and Anderson had returned to Finely the next day to procure the signature of the judge on a court order approving the interim account which they withdrawn the day before. In violation of Rule 5 of N.D. R. Civ. P. and NDCC 30-20-15, First Trust deprived Conway of Notice and kept the court order secret for 22 months. On December 8, 1983, in sworn testimony, Anderson denied that First Trust had secured a court order approving the interim account. (App. #870111, p. 36)(Brief of Appellant, p. 14 to 24)

At the onset of the hearing on the final account on September 21, 1984, Judge Dosch who administers a two-tier court and conducts, under Supervised Administration, underground hearings and signs counterfeit court orders on demand, announced: (Tr. No. 3263, p. 36; Brief of Appellant, #870111, p. 23)

> "Should it become necessary for the Court to rule on objections we have set up, I invite Mr. Johnson to make those objections timely and I will rule on them as we go ahead.(emphasis supplied)

Deprivation of Notice to petitioner resulted in her forfeiture or divestiture of her right to inherit $882,740.53.

Prior to the hearing, Conway exercised her rights under NDCC 30-20-13, 30-20-15, 30-20-01, 30-20-02, 30-20-07, 30-20-14, 30-20-09, 30-20-05, 30-12-09, 30-15-01, 30-15-02, 30-15-03, and 30-15-09 (1) to file a petition for accounting of the Estate of Selma Kjorvesad; (2) to contest

the counterfeit court order and file written objections to it; (3) to file a written protest formally contesting the so-called "final account"; (4) to file a petition pleading to the Court to reject the final account; and (5) to file Objections to Allowance of Account. During the hearing, Conway formally petitioned again for an accounting of the Estate of Selma Kjorvestad.

Probate Officer, Anderson, made 9 perjurous statements in her narrative, substituted for a financial accounting of $974,780.00 in cash assets belonging to the estate. Anderson committed perjury when she stated that an Inventory had been filed in the Estate of Selma Kjorvestad and that she had seen it. (App. #870111, p. 47, line 3; p. 66, line 5; p. 98, line 20; p. 99, line 4;) (Tr. No. 3263, p. 31, line 4

When Anderson was examined on her so-called "final account", she practiced evasion 30 times whispering, "I don't know" or "I don't remember" or answered incorrectly. (App. #870111, p. 67, line 1, 14; p. 70, line 4, 8, 10, 13, 17, 22, 23; p. 71, line 1, 4, 7, 8, 11, 17, 20, 23; p. 72, line 2, 6, 9, 14, 20, 24, p. 79, line 25; p. 82, line 15; p. 83, line 5, 20; p. 84, line 3; p. 98, line 20; p. 103, line 17) Anderson confessed, under oath, that neither First Trust nor Johnson had ever inspected the Probate File of the Estate of Selma Kjorvestad, never read her wills, never collected her property, never preserved her property and never accounted for her property. (App. #870111, p. 61, line 25; p. 90, line 15; p. 115, line 16; p. 114, line 20; p. 115, line 2; p. 90, line 20;

The life-savings of a farmer were turned over to a girl whose over-tranquil-

ized or drugged condition alarmed the judge. (App, #870111, p. 92, line 1; p. 95, line 18; p. 98, line 7; p. 112, line 23) (Brief of Appellant, #870111, p. 9) Anderson was fired by First Trust for her condition at the September 21, 1984 hearing but First Trust demanded ten financial penalties against Conway, including a financial penalty for Anderson's performance, (Penalty #1) on September 21, 1984.

During the hearing, former North Dakota Supreme Court Justice, Johnson, negotiated with Judge Dosch to change the will of Selma Kjorvestad and alter the distribution of her estate in order to cover-up theft of the contents of 6 safe deposit boxes belonging to the Estate of Selma Kjorvestad. Deeds to 3520 acres of farmland, stocks, bonds, certificates of deposit, receipts for treasury bills, rare coins, gold, silver, diamonds and $28,500.00 in cash was stolen from the

6 safe deposit boxes. (App. #870111, p. 118 to 121)

Conway appealed the Order to the North Dakota Supreme Court. In Opinion and Judgment entered October 1, 1985, the North Dakota Supreme Court ruled: (App. p. 42)

> "We find no procedure from the old Pro Code which should be applicable in this decade to First Trust 'in the interest of justice'.(emphasis supplied) Nor, do we find any procedure in the new Probate Code which is infeasible of application to these estates."

> "Conway points out that Kjorvestad I, 250 N.W.2d at 276, approved application of old Probate Code procedures to these disputes in 1977. In that decision, this court said: "Application of former law was in the discretion of the trial court and we do not find an abuse of that discretion..." This prior discretionary application of old procedures did not fix procedural rights for the eternity of these estates. It is aximomatic that procedural modes, as distinguished from substantive rights, are not vested and are subject to repeal, modification or change.
> (App. p. 41 to 43)

> "First Trust suggests that we consider assessing its costs and attorney's fees on this appeal against Conway's

share of the estates as an appropriate method for dealing with her unrestrained and unsubstantiated accusations. We agree." (App. p. 48)

"Accordingly, we exercise our powers under Rule 38, R.D.R.App.P., and direct an award accordingly. We order that First Trust be paid its reasonable compensation, attorney's fees and costs on this appeal out of Conway's share of the estate only, rather than from the total estate as has been done heretofore." (App. p. 49)

The North Dakota Supreme Court Supreme Court remanded the case back to the Nelson County Probate Court to levy financial penalties against Conway for exercising her right of due process of law and equal protection of the laws.

2. Amended Findings of Fact, Conclusions of Law and Order Upon Remand.

Again, Johnson, the former North Dakota Supreme Court Justice, used the Nelson County Underground Probate Court because (1) Anderson had been fired by First Trust for her over-medicated and drugged condition in Nelson County Probate Court

for the hearing on the final account on September 21, 1984 and (2) to evade examination of their billings for the period beginning September 1, 1984 which included charges for preparing the fraudulent final account and counterfeit court order. (App. #870111, p. 145 to 153) To avoid examination of probate fraud, perjury and felonies, Johnson and First Trust, in violation of NDCC 30-20-15 and Rule 5 of the N.D. Rules of Civil Procedure, deprived Conway of Notice and the right to defend herself against financial penalties in a court of law.

Again, Johnson used his position as a former North Dakota Supreme Court Justice to subvert Judge Dosch to use the Nelson County Probate Court for criminal purposes. Johnson coerced Judge Dosch, under Supervised Administration, to amend the entire Opinion and Judgment of the North Dakota Supreme Court entered Octob-

ber 1, 1985. The former North Dakota Supreme Court Justice levied two financial penalties against Conway, $2,306.53 and $4,433.36, a total of $6,739.88 for appealing the final account and counterfeit court order of her mother's estate in which an Inventory of $1,646,780.00 in property had never been filed, an Appraisement of $1,646,780.00 in property had never been filed and there had never been a single accounting of $974,780.00 in cash assets. First Trust and Johnson denied Conway the right to defend herself in a court of law.

The former North Dakota Supreme Court Justice documented "findings of fact" during the underground hearing in the Nelson County Underground Probate Court, under Supervised Administration, based on the testimony of the ghost of Conway and other phantom witnesses, fictitious exhibits, imaginary affidavits, an apparitional

court reporter, specteral beneficiaries, in an unidentified city, at an undisclosed location, on an unrevealed date, at an unspecified time, in The Golden Age of Judicial Corruption. First Trust and Johnson postponed mailing the counterfeit court order to Conway until after the time had expired for her to file a Motion.

Conway appealed the counterfeit court order which levied two financial penalties against her to the North Dakota Supreme Court. In briefs and oral argument, Johnson contended that Selma Kjorvestad's beneficiary, Conway (1) had no right whatsoever to Notice of secret court orders; (App. #870111, p. 170) (2) had no right whatsoever to Notice of secret hearings; (App. #870111, p. 133) and (3) no right whatsoever to an accounting of her mother's estate. (App. #870111, p. 133) During Oral Argument, Johnson explained to his former associate justices, "My

thought process was that it was simply a practical matter!" (Tr. Oral Argument, North Dakota Supreme Court, September 24, 1986)

To cover-up probate fraud and grave judicial errors, the North Dakota Supreme Court changed "Amended Findings of Fact, Conclusions of Law and Order" entered December 5, 1985 in the Nelson County Probate Court to "Amended Order Upon Remand" and ruled:

> "Because this Amended Order Upon Remand was entered without notice or hearing it is not appealable and we dismiss appeal."

However, in its Opinion and Judgment entered on May 16, 1988 and Amended Opinion entered on June 28, 1988, the North Dakota Supreme Court levied two financial penalties against Conway because she appealed the counterfeit court orders, procured by fraud in the Nelson County Underground Court, Penalty #3 for $2,751.86 and Penalty #4 for $4,429.00,

but deprived Conway of the right to defend herself in a court of law.

In the Opinion and Judgment entered October 28, 1988, the North Dakota Supreme Court exceeded its jurisdiction and encouraged the Nelson County Probate Court to violate Conway's rights under the Fourteenth and Eighth Amendment and to exceed its jurisdiction when it ruled:

> "To avoid perpetuation of this dilemma, we suggest that the county court make <u>any</u> award therefore at the hearing, when and if it is held. (emphasis supplied) (App. p. 71)

The North Dakota Supreme Court falsely stated: (App. p. 68)

> "Conway appealed on February 1, 1986, arguing that she was deprived of a hearing on the reasonableness of the amounts of compensation and attorney's fees.

Conway appealed because her rights under the Fourteenth and Eighth Amendment were violated on September 21, 1984 when their former associate justice ambushed Conway with another counterfeit court order.

3. Findings and Order Approving Fees

Entered February 23, 1987 in the Nelson County Probate Court.

First Trust demanded that the Nelson County Probate Judge levy ten financial penalties, six of unlimited and undisclosed amounts for future fees of Anderson (who had been fired over 3 years ago) and Johnson without prior authorization from any North Dakota court, against Conway because her appeals of fraudulent accounts and counterfeit court orders procured by fraud in the Nelson County Underground Probate Court were "frivolous, flagrantly groundless and taken in bad faith". During the hearing, the Nelson County Judge denied Conway a fair trial and deprived Conway of the right to examine the former Probate Officer of First Trust on charges which constituted ten financial penalties against Conway:

Supreme Court Penalty #1 Against Conway. Penalty of $2,306.53 was levied for contesting counterfeit court orders and final account in which the entire probate procedure required by law was aborted. No Inventory has been filed of $1,646,000.00 in property, required by law. There is no Appraisement of $1,646,00.00 in property, required by law. In 14 years there has never been a single accounting of $974,780.00 in cash assets belonging to the Estate of Selma Kjorvestad. First Trust proposes to distribute NOTHING, minus ten financial penalties, minus a $5,000.00 Reserve Retainer out of $974,780.00 in cash assets to Selma Kjorvestad's beneficiary, Conway.

Supreme Court Penalty #2 Against Conway. The $4,433.36 penalty represents charges of Johnson for preparing fraudulent final account and counterfeit court orders.

Supreme Court Penalty #3 Against Conway. A double-penalty, $2,206.53 and $2,751.86 against the beneficiary for her appeal of "Amended Findings of Fact, Conclusions of Law and Order Upon Remand, procured by fraud in the Nelson County Underground Probate Court. The two penalties represent the featherbedding fees of Anderson while employed as a Hostess of First Bank for the past 3 years.

Supreme Court Penalty #4 Against Conway. The double-penalty, $4,433.36 and $4,329.00 represent charges of Johnson for preparation of fraudulent final account and counterfeit court orders procured by fraud in the Nelson County Underground Probate Court.

Supreme Court Penalty #5 Against Conway. Approval in advance without prior authorization of a North Dakota Court, for a financial penalty of undisclosed and unlimited amounts against the beneficiary

for the future fees of Johnson but deprived Conway of the right to defend herself in a court of law.

Supreme Court Penalty #6 Against Conway. The Court ordered in advance, without prior authorization of a State court, a financial penalty of undisclosed and unlimited amounts for featherbedding fees of the Hostess of First Bank since her last bill but deprived Conway of the right to defend herself in a court of law.

Supreme Court Penalty #7 Against Conway. The Court ordered in advance, without prior authorization from any State court, a financial penalty of unlimited and undisclosed amounts against the beneficiary for future fees of Johnson but deprived Conway of the right to defend herself in a court of law.

Supreme Court Penalty #8 Against Conway. The Court ordered in advance, without prior authorization from any State court, a financial penalty of unlimited and undisclosed amounts against the beneficiary for future featherbedding fees of the Hostess of First Bank but deprived Conway of the right to defend herself in court of law.

Supreme Court Penalty #9 Against Conway. In violation of their own North Dakota Rules of Disciplinary Procedure, Rules 22, and ABA Standards for Lawyer Discipline and Disciplinary Procedures, Section 8.3, the Court ordered an unlimited and undisclosed financial penalty against the beneficiary for filing a complaint against Johnson with the Disciplinary Board of the Supreme Court. (see First Trust Petition for Rehearing, 3 complaints, January 3, 1987, March 22, 1987 and April 7, 1988)

Supreme Court Penalty #10 Against Conway. The Court ordered in advance, without prior authorization of a North Dakota court, a financial penalty of unlimited and undisclosed amounts against the beneficiary for any future complaint she may file against Johnson but deprived Conway of the right to defend herself in a court of law.

Petitioner appealed the order to the North Dakota Supreme Court. In Opinion and Judgment entered May 16, 1988, the North Dakota Supreme Court affirmed in part and reversed in part the Order of the Nelson County Probate Court. The North Dakota Supreme Court reversed Penalty #9 and Penalty #10.

Petitioner filed Petition for Rehearing on May 23, 1988. First Trust filed Petition for Rehearing for additional bills and included copies of confidential complaints filed by Conway against Johnson with the Disciplinary Board of Supreme Court.

4. Amended Opinion of the North Dakota Supreme Court entered June 28, 1988.

The North Dakota Supreme Court reversed their Opinion and Judgment entered May 16, 1988. After reviewing the confidential complaints filed against Johnson, the North Dakota Supreme Court reinstated Penalty #9 against the beneficiary

with double costs and another financial penalty against Conway for additional fees for their former associate justice but deprived Conway of the right to defend herself in a court of law.

B. Manner of Raising Federal Questions of the Fourteenth Amendment in Nelson County Probate Court: (Case No. 3263)

1. In dozens of telephone calls over a period of several months, Conway requested copies of the Docket File of the Estate of Selma Kjorvestad in order to comply with Rule 30(a)(3) of N.D. Rules of Civ. P. Clerk of Court Swanke and Clerk of Court Pederson denied all requests.

2. Conway mailed a certified letter with a check to Clerk of Court Swanke requesting copies of the Docket File of her mother's estate. In a letter dated December 11, 1987, stated that she and Judge Jonal Uglem "are in complete agreement that the docket sheet is not considered part of this

file" (App. p. 96)

3. Conway hired an attorney to secure the Docket File for her mother's estate. In an undated letter, Swanke stated that she and Judge Jonal Uglem were refusing the request (App. p. 98)

4. Conway flew to North Dakota and traveled Lakota on January 31, 1988. On February 1, 1988, Conway went to the office of the Clerk of Court to request copies of the Docket File, stating that it was required for her appeal to the North Dakota Supreme Court. Deputy Clerk of Court Susan Pederson denied the request.

5. Conway filed Petition to Inspect Probate File, Including Docket File, of the Estate of Selma Kjorvestad. Judge Jonal Uglem and Clerk of Court Swanke ignored the petition. (App. p. 100)(Petition for Rehearing, #870111, ps. 1 to 9)

5. During the hearing before Judge Jonal Uglem on February 10, 1987 (Case No.

3263) in Nelson County Probate Court, Conway pleaded for the right of due process of law and equal protection of the Probate Statutes in the bicentennial of the Constitution: (Tr. p. 17, line 11; p. 18, line 24; p. 34, line 9; p. 35, line 19, 21; p. 44, line 2; p. 51, line 1, 8, 17; p. 52, line 16; p. 53, line 4 p. 55, line 9; p. 57, line 1, 20; p. 58, line 7; p. 59, line 4)

C. Way in Which Federal Questions Were Passed Upon by Nelson County Probate Court.

1. The judge threatened to terminate the hearing 17 times if Conway attempted to examine First Trust on charges for probate services rendered on Exhibits #1 to #4, the basis for the ten penalties against Conway: (Tr. p. 17, line 7, 21; p. 18, line 22; p. 19, line 6; p. 28, line 11; p. 29, line 7; p. 32, line 20; p. 33, line 13; p. 38, line 25; p. 39, line 22; p. 41, line 23; p. 42, line 12, 23; p. 43,

line 15; p. 44, line 20; p. 51, line 23)

During the hearing in Nelson County Probate Court on February 10, 1987, Judge Jonal Uglem denied Conway a fair trial and deprived Conway of the right to examine First Trust on Exhibits #1 to #4, the billings from September 1, 1984 to January 31, 1987, the period that included charges for the fraudulent final account and counterfeit court orders, procured by fraud. (App. #870111, p. 145 to 153)

1. Anderson refused to answer. Johnson Objected. Judge sustained. (Tr. p. 12, line 4)

2. Anderson refused to answer.
(Tr. p. 13, line 1)

3. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 15, line 4)

4. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 16, line 15)

5. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 17, line 18)

6. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 17, line 22)

7. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 17, line 25)

8. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 18, line 2)

9. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 18, line 7)

10. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 18, line 10)

11. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 18, line 14)

12. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 18, line 17)

13. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 18, line 20)

14. Anderson refused to answer. Johnson objected. (Tr. p. 25, line 17)

15. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 28, line 20)

16. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 32, line 24)

17. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 33, line 4)

18. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 34, line 22)

19. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 35, line 23)

20. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 36, line 6)

21. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 37, line 2)

22. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 37, line 10)

23. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 38, line 23)

24. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 39, line 8)

25. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 39, line 25)

26. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 40, line 3)

27. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 41, line 2)

28. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 41, line 24)

29. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 42, line 6)

30. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 42, line 22)

31. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 43, line 1)

error

32. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 46, line 23)

33. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 48, line 16)

34. Anderson refused to answer. Johnson objected. (Tr. p. 50, line 6)

35. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 50, line 9)

36. Judge blocked answer. (Tr. p. 51, line 20)

37. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 52, line 3)

38. Anderson refused to answer. Johnson objected. Judge sustained. (Tr. p. 54, line 16)

39. Anderson refused to answer. Johnson objected. (Tr. p. 21, line 3)

Johnson claimed that Anderson's refusal to answer 38 times, Johnson's objection 37 times and the judge's sustainment 36 times was:

> "...direct personal testimony as to services performed and the reasonableness of those services and I submit that is more than sufficient." (File No. 3263, Tr. p. 54, line 25; p. 72, line 20)

In Findings and Order Approving Fees, entered February 23, 1988, Judge Jonal Uglem ruled:

"The testimony of Pamela Anderson as an employee of First Trust Company of North Dakota familiar with the instant estates as well as experienced in administration of other estates is accurate and trustworthy." (App. p. 76)

D. Manner of Raising Federal Questions of Fourteenth Amendment in the North Dakota Supreme Court.

Brief of Appellant, No. 870111.

Issues: II, III, IV, and V.

Statement of the Case: p. 4, line 2, 12, 26; p. 5, 9, 13, 21.

Law and Argument: p. 9, line 6; p. 10, line 22, 38; p. 16, line 15; p. 24, line 20; p. 30, line 29, 34; p. 31, line 7, 20; p. 33, line 1, 17; ps. 36 to 38; p. 39, line 1, 27; p. 40, line 18; p. 41, line 15; p. 42, line 36; p. 43, line 1; p. 48, line 36.

Reply Brief, No. 870111:

p. 1, line 14, 31; p. 10, line 1, 7, 20.

Petition for Rehearing, No. 870111.

ps. 1 to 4; App. p. 1 to 4.

E. Manner of Raising Federal Question of Eighth Amendment in the North Dakota Supreme Court.

Brief of Appellant, No, 870111:

Issues: III, IV, and V.

Statement of the Case: p. 4, line 2, 12, 26; p. 4, line 9, 13, 31.

Law and Argument: p. 24, line 20; p. 30, line 29, 34; p. 31, line 7, 20,34; p. 33, line 1, 17; p. 34, line 14; p. 39, line 1, 27; p. 40, line 18; p. 41, line 15; p. 42, line 26; p. 43, line 1; p. 45, line 1, 8, 15; p. 48, line 1, 36.

Reply Brief, No. 870111:

p. 1, line 14, 31; p. 10, line 1.

Petition for Rehearing, No. 870111:

ps. 1 to 4; App. ps. 1 to 4.

F. Way in Which Federal Questions Were Passed Upon by the North Dakota Supreme Court:

1. In Opinion and Judgment entered May 16, 1988, the North Dakota Supreme Court ruled:

"An appeal is frivolous if it is flaggrantly goundless, devoid of merit, or demonstrates persistence in the course of litigation which could be seen as evidence of bad faith." (App. p. 86)
"We deem this appeal to be frivolous under Rule 38, R.D.R. App. P." (App. p. 87)

"Because there was no affidavit documenting work on this appeal, we award only double costs and attorney fees in the amount of $250, which are to be paid out of Conway's share of the estates." (App. p. 88)

1. In Opinion and Judgment, the North Dakota Supreme Court reversed Penalty #9 and Penalty #10 against Conway but substituted another penalty against Conway for fees for the former associate justice, Johnson.

2. The North Dakota Supreme Court refused to unseal and open the Docket File of the Estate of Selma Kjorvestad.

3. The North Dakota Supreme Court entered "Amended Opinion" on June 28, 1988 and imposed an additional financial penalty against Conway for $4, 582.05 but denied Conway the right to defend herself in a

court of law.

On the demand of the former North Dakota Supreme Court Justice, Johnson, the North Dakota Supreme Court, in violation of the Probate Statutes of the North Dakota Century Code, has approved $280,104.97 in legal fees, plus ten financial penalties against Conway plus a $5,000.00 Reserve Retainer from the debt-free bankrupt Estate of Selma Kjorvestad for aborting the entire probate procedure required by law.

ARGUMENT

Selma Kjorvestad died on May 15, 1974. The Will of Selma Kjorvestad is probated under the Probate Statutes of the North Dakota Century Code. The North Dakota State Legislature extended the protection of the Probate Statutes of the North Dakota Century Code under NDCC Article VII, 30.1-35 of the Uniform Probate Code. (App. p. 107)

In a letter regarding the tax consequences of deaths prior to July 1, 1975, the Office of the North Dakota Tax Commission required that the Estates of Selma Kjorvestad, who passed away prior to July 1, 1975, be probated under the North Dakota Code that was in force on the date of her death. (App. p. 121)

1. The North Dakota Supreme Court exceeded its jurisdiction when it "repealed in the interest of justice" the Probate

Statutes of the North Dakota Century Code Article VII, 30.1-35-01 (8-101) Subsection 1 and 2(a) passed by the North Dakota State Legislature to protect the estates of farmers.

2. The North Dakota Supreme Court violated Conway's right of due process of law and equal protection of the Probate Statutes of the North Dakota Century Code when it "repealed in the interest of justice" the Probate Statutes and instead applied the Uniform Probate Code which was not adopted until July 1, 1975, over a year after the date of the death of Selma Kjorvestad, May 15, 1974.

> "We find no procedure from the Old Probate Code which should be applicable in this decade to First Trust 'in the interest of justice'."

> "Conway points out that Kjorvestad I, 250 N.W. 2d at 276, approved application of the old Probate Code procedures in those disputes in 1977. In that decision this Court said: 'Application of former law was in the discretion of the trial court and we

> do not find an abuse of that discretion.' This prior discretionary application of old procedures did not fix procedural rights for the eternity of those estates. It is axiomatic that procedural rights, are not vested and change subject to repeal, modification or change." (App. p. 42, 43) (emphasis supplied)

3. The North Dakota Supreme Court ruled that the abortion of the entire probate procedure of the Estate of Selma Kjorvestad, required by North Dakota law, "is not significant". There has never been a single accounting of $974,780.00 in cash assets in 14 years and the Estate of Selma Kjorvestad is bankrupt. The only distribution from the Estate of Selma Kjorvestad was triggered when Lorraine Parker forged the signature, "Eileen Conway" to a check for $35,000.00 nine months before she asked the North Dakota Supreme Court to approve the distribution. The so-called "Settlement" stipulated that there would be an accounting of the Estate of Selma Kjorvestad first and then

the grain would be sold and the proceeds would go to the Estate of Selma Kjorvestad. There was never an accounting of the grain. (Settlement, P. 12, line 12)

"THE COURT: Okay, and will that money the be realized to go into the estate?
MR. PEARSON: Yes, Your Honor.
THE COURT: Proceeds to the estate."

An accounting of grain was blocked to cover-up massive federal and state income and estate tax fraud that forced the estates to pay $417,868.13 in additional taxes, additional interest, penalties, and attorneys' fees which enriched First Trust but bankrupted both estates. In seven flawed decisions, the justices of the North Dakota Supreme Court have made false statements to cover-up massive probate fraud against the Estate of Selma Kjorvestad. The statements made in recent opinions are in direct conflict with rulings of the North Dakota Supreme Court in previous decisions.[1] See "Chickens

Come Home to Roost on the North Dakota Supreme Court". (Appellant's Reply Brief, #870111, ps. 2 to 10)

4. The North Dakota Supreme Court upheld the position of First Trust that Selma Kjorvestad was only a "companion", a farmer's wife, a non-legal entity who was not entitled to have her estate probated under the protection of the State of North Dakota. To cover-up massive income and estate tax fraud, First Trust asserted that Guy Kjorvestad, Sr. and Selma Kjorvestad legally were only one person and one estate. Selma Kjorvestad, in her own name, owned farms, real estate, grain in 5 grain elevators, grain store in steele buildings on farms, stocks, bonds, certificates of deposit, treasury bills, savings accounts, checking accounts, insurance policies, gold, silver, rare coins diamonds and cash and 6 safe deposit

boxes. First Trust illegally moved cash assets and redeemed cash assets belonging to Selma Kjorvestad to transform the debt-free, cash-heavy Estate of Selma Kjorvestad into the bankrupt estate of a disfranchised non-person in order to cover up massive estate tax fraud. The U. S. District Court has ruled that a farmer's wife is a separate person, under the law in Women Involved in Farm Economcics v. U.S.D.A., 682 Federal Supplement 599.

5. The North Dakota Supreme Court violated the constitutional rights of Conway under the Eighth and Fourteenth Amendment when it levied ten financial penalties against Conway for contesting the fraudulent final account and counterfeit court orders in which the entire probate procedure was aborted and $974,780.00 in cash assets disappeared from Nelson County Probate Court without a single accounting. The North Dakota Supreme Court ruled that

Conway's appeal was "frivolous, flagrantly groundless and taken in bad faith". The North Dakota Supreme Court demands, under threat of penalties, that the victim of the crimes, sanction the crimes of the former North Dakota Supreme Court Justice.

6. The North Dakota Supreme Court denied Conway a fair trial and, in violation of the North Dakota Constitution, Section 5 and 6, deprived Conway of access to the Docket File of her mother's estate. (App. p 96 to 104)

7. The recent rulings of the North Dakota Supreme Court are in direct conflict with previous decisions of the Court and even contradict their own rulings in these estates. For example, the North Dakota Supreme Court claims that Conway had a duty to account. In violation of law, the North Dakota Supreme Court affirmed an order which enjoined Conway from

ever asking about a penney of $665,000.00 in cash assets in her father's estate and enjoined Conway from every asking about a penney of $974,780.00 in her mother's estate, "or any other assets, or any other business of the estates". (App. #870110, p. 7) This is why a member of the Joint Committee of Professional Discipline of the National Center of Professional Responsibility of the American Bar Association stated that North Dakota has been targeted as the prime problem state for judicial corruption.

The ruling of the North Dakota Supreme Court violate the fundamental principle that one shall have notice of any judicial proceeding affecting one's rights. Deprivation of Notice affected the substantial rights of Conway and resulted in her forforfeiture or divestiture of her right to inherit $882,740.53. Deprivation of Notice foreclosed Conway

from the right to defend herself in a court of law against financial penalties imposed by the North Dakota Supreme Court.

The North Dakota Supreme Court held in Crowl v. Wentz, 107 N.W. 2d 697, 700 (N.D. 1961):

> "Where giving of notice is relied on to sustain forfeiture or divestiture of one's rights, statutory direction as to how such notice shall be given must be strictly complied."

Quoting from an earlier decsion in Nelson v. Ecklund, 68 N.D. 724, 288 N.W. 273, 277 (1938), the Court decided:

> "No decree...so materially affecting the rights of property and person, can be valid, unless the party to affected has had an opportunity to be heard in defense of his rights."

In Goetz v. Gunsch, 80 N.W. 2d 548, (December 19, 1956), the North Dakota Supreme Court ruled:

> "Where judgment is procured by extrinsic fraud, upon discovery of fraud, or when such fraud is called to the attention of court, court has power and authority to vacate such judgment."

The North Dakota Supreme Court held in Paul v. Paul et al, 170 N.W. 658, (February 11, 1919):

> "Judgment or decree procured through extrinsic fraud practiced upon the court may thereafter at any time be vacated and set aside as wholly void."

The same Court ruled in Lewis v. Poel, 136 N.W. 2, 7, (July 13, 1965):

> "If fiduciaries, their attorneys, and parties in interest, cooperated for personal profit in secret mismanagement of three estates at the expense of one or more of the estate and to the detriment of minor beneficiary of each estate, the beneficiary's assignee was entitled to account and other relief for fraud."

This Court ruled in Hammon v. Weiss, 208 N.W. 2d 578:

> "Orders of the probate court fraudulently obtained are not res judicate."

The North Dakota Supreme Court decided in Danks v. Holland, 246 N.W. 2d 86 (September 26, 1976):

> "Where appeal was not flagrantly groundless, costs would not be assessed in favor of successful plaintiff on theory that the appeal was frivolous."

In Hoerr v Northfield Foundry and Machine Company, 376 N.W. 2d 323 (N.D. 1985) the same Court ruled:

> "An award of damages, costs and attorney fees are not justified for an appeal which is neither frivolous or taken in bad faith."

Conway asserts an appeal of a final account and counterfeit court orders is not "frivolous" if the entire probate proceding of the estate has been aborted; no accounting of $974,780.00 in 14 years; First Trust proposes to distribute NOTHING, minus ten financial penalties, minus a $5,000.00 Reserve Retainer, to Selma Kjorvestad's beneficiary; and the debt-free Estate of Selma Kjorvestad is bankrupt with no records in the Nelson County Probate Court of the disbursement of her cash assets.

8. In violation of their own N.D. Rules of Disciplinary Procedure, Rule 22 (a) and the ABA Standards for Lawyer Discip-

line and Disability Procedures, Section 813, the North Dakota Supreme Court levied a financial penalty against Conway for filing a complaint against Johnson with the Disciplinary Board of the Supreme Court. (First Trust's Petition for Rehearing, copies of complaints filed on January 3, 1987, March 22, 1987, and April 7, 1988)

9. In violation of the Eighth Amendment the North Dakota Supreme Court has imposed "unusual punishments", ten financial penalties against Conway to intimidate her from (1) exercising her right of due process of law and equal protection of the Probate Statutes of the North Dakota Century Code and (2) exposing fraud and felonies committed by a former North Dakota Supreme Court Justice, Johnson, attorney for First Trust.

In 3 decisions, all based on petitions illegally filed by Pearson in the name of "Eileen Conway, Petitioner".

Conway v. Parker, 250 N.W. 266 (N.D. January 27, 1977); Conway v. Parker, 287 N.W. 2d 465 (N.D. January 10, 1980; Conway v. Parker, 302 N.W. 2d 83 (April 3, 1981) the North Dakota Supreme Court praised Pearson for committing heinous crimes against Selma Kjorvestad, the Estate of Selma Kjorvestad and her beneficiary. (Reply Brief of Appellant, #870111, ps. 2 to 10) The North Dakota Supreme Court forced Conway, the Executrix of the Estate of Selma Kjorvestad, to pay Pearson $60,289.95 for crimes that bankrupted her estate. Contrary to the false statements of the justices of the North Dakota Supreme Court, Pearson has never been the attorney for either estate. The North Dakota Supreme Court vilified Conway as "intransigent", "contentious', quarrelsome" and "litigous" (for hundreds of petitions filed by Pearson in the name "Eileen Conway, Petitioner")for objecting

to massive federal and state income and estate tax fraud; obstruction of an accounting (for 14 years First Trust and Pearson claimed "the Supreme Court found no necessity for a full accounting." [App. #870111, p. 6]); the destruction of all files and records of the Estate of Selma Kjorvestad; the defiance by Pearson of 2 court orders to surrender records and files of the estate; two illegal secret lawsuits filed in two federal courts in the name of "Eileen Conway, Petitioner" in United States District Court and the U. S. Tax Court (Eileen Conway v. Internal Revenue Service, U. S. Tax Court, No. 11999,78) which resulted in the estates being forced to pay $417,868.13 in additional taxes, additional interest, penalties and attorneys' fees. Holding the Estate of Selma Kjorvestad hostage for 14 years in ligiation enriched First

Trust and Pearson but bankrupted the estate and its beneficiary. The North Dakota Supreme Court ruled that Conway cannot object to paying for Pearson's "expertise" because she benefited from it. When the North Dakota Supreme Court discovered that Pearson's so-called "expertise had bankrupted both estates, they reversed themselves in First Trust v. Conway, 345 N.W. 2d 838 (N.D. February 23, 1984); First Trust v. Conway, 375 N.W. 2d 160 (N.D. October 1, 1985); First Trust v. Conway, 395 N.W. 2d (N.D. October 28, 1986) and castigated Conway for not producing an account which they had blocked for 14 years. Conway worked day and night for 15½ years and spent $250,000.00 of her own money trying to get an accounting of her father's and mother's estates which is required by North Dakota law.

CONCLUSION

In two Wills signed on July 8, 1969 and December 3, 1972, Selma Kjorvestad designated her daughter, Eileen Conway, as her sole Executrix, in the event that her husband, Guy Kjorvestad, Sr. predeceased her. An older daughter who lived in her vicinity was not named in any capacity.

Conway has worked for 15 years to fulfill her sacred obligations to her father and mother. Conway appealed to:

1. Grand Forks County State's Attorney, Mr. Thomas Jelliff. (Conway's signature had been forged to 13 checks [App. #870111, p. 21) Mr. Thomas Jelliff was unable to help because he was under indictment himself for embezzlements from the office of the Grand Forks County State's Attorney.
2. Nelson County State's Attorney, Randy Deede, for forgeries in Nelson County.

3. North Dakota Attorney General, Allan Olson.

4. North Dakota Governor, Allan Olson.

5. North Dakota Attorney General, Nicholas Spaeth.

6. North Dakota Governor, George Sinner.

7. The American Bar Association

8. The U. S. Comptroller of the Currency.

9. The North Dakota Commission on Banking and Financial Institutions.

10. Federal Deposit Insurance Corporation.

The petitioner prays that the Writ of Certiorari will be granted.